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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,036	12/28/2000	Sergo Haumont	975.320USW1	8095

32294 7590 10/06/2004

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EXAMINER

CRAVER, CHARLES R

ART UNIT PAPER NUMBER

2682

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/751,036	<b>Applicant(s)</b> HAUMONT ET AL.	
	<b>Examiner</b> Charles R Craver	<b>Art Unit</b> 2682	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 August 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 33-72 is/are pending in the application.
- 4a) Of the above claim(s) 43-72 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12-28-00</u> | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Group I in the reply filed on 8-2-04 is acknowledged. The traversal is on the ground(s) that all three groups are drawn to a single invention. This is not found persuasive because the three groups comprise two subcombinations (I and II) usable in a single combination (III), which makes the three separately usable and thus separate inventions according to MPEP § 806.05(a) and (c).

The requirement is still deemed proper and is therefore made FINAL.

This application contains claims drawn to an invention nonelected with traverse in Paper No. 9. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

### ***Claim Objections***

Claim 35 is objected to because of the following informalities: Claim 35 is dependent on a canceled claim (22). Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claim 35 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 35, the phrase "and/or" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 33-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishida, EP 739147 in view of Ikeda, EP 758175.

**Claim 33:** Ishida discloses a voice mail system with receiving means for receiving an incoming message, means for adapting the message into a data format for transmission, and means for transmitting the data to a mobile station over a network (col 8 line 32-col 10 line 41). Ishida fails to disclose that the data is in packet format and the network is a packet-switched network.

Ikeda discloses a voice mail system with receiving means for receiving an incoming message, means for adapting the message into a data packet format for transmission, and means for transmitting the data to a mobile station over a packet-

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switched network (col 21 line 31-col 22 line 41). Since voice packet communication is considered delay-sensitive while data packet communication is considered error-sensitive, such data packet communication is read as not meeting a delay requirement.

Therefore, it would have been obvious to one of ordinary skill in the art, given the advantages of data packet transmission, to use the packet-switched network of Ikeda in the system of Ishida, as Ikeda states that "there is a requirement for employing a packet communication as one method of data communications in the mobile communication", see col 1 lines 27-31. **Claims 36-38:** Ishida discloses that the system may repeatedly attempt to resend the message in a predefined manner, and to inform and dispatch the message if the MS becomes available again (col 9 lines 16-39). **Claim 39:** Ishida discloses that the message may be dispatched when the MS sends a request (col 9 lines 40-52).

**Claims 34 and 35:** While disclosing applicant's invention of claim 33 above, Ikeda fails to disclose GPRS or UMTS or an ISDN. However, all were widely used in cellular communications at the time for packet data, and as such the examiner takes Official Notice of such features, asserting that one of ordinary skill in the art at the time of the invention would have considered them for use in the data system of Ikeda as they were standardized data systems and messaging methods available at the time.

Claims 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishida in view of Ikeda as applied to claim 36 above, and further in view of Sumner, US Pat 6,091,947.

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While disclosing applicant's invention of claim 36 above, Ishida in view of Ikeda fails to disclose telling the MS that a message is still waiting to be dispatched.

Sumner discloses a packet voice mail system similar to both Ishida and Ikeda, wherein the system may tell the MS that messages are still pending, including listing said messages and identifying if they are deliverable (col 8 lines 14-64).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to add such a feature to Ishida in view of Ikeda, as it would help the user understand the messages waiting and assure that he/she doesn't turn off the phone while priority messages are waiting, as described by Sumner in col 8 lines 46-53.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bennett discloses a means for storing voice messages at an MS.

### **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

### **Or faxed to:**

(703) 872-9314 for both formal and informal/draft communications, labeled as such.

Hand delivered responses should be brought to Crystal Park II, 2121

Crystal Drive, Arlington VA, sixth floor (receptionist).

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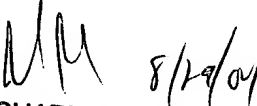
Any inquiry concerning this or earlier communications from the examiner should be directed to examiner Charles Craver at (703) 305-3965.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Vivian Chin, can be reached at (703) 308-6739.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at (703) 305-4700.

CC

C.Craver

 8/29/04  
CHARLES CRAVER  
PRIMARY EXAMINER

September 29, 2004